

**ANDREW GIULIANI,**

**Plaintiff,**

**v.**

**DUKE UNIVERSITY and**  
**ORRIN DANIEL VINCENT III,**

**Defendants.**

Edward C. Carrington *et al.* respectfully move the Court to appear as amici and for leave to file a brief in support of Plaintiff's objections to the magistrate judge's Report and Recommendations. Amici's proposed brief is attached to this motion. Plaintiff consents to this motion. Defendants do not consent to this motion.

Amici have a significant interest in the outcome of this case because Amici's complaint, like Plaintiff's, claims that Duke University was contractually bound by terms set forth in the Student Bulletin and other University publications—particularly the anti-harassment and

procedural-safeguards provisions—by promises made by a coach as an inducement to enroll, and by the covenant of good faith and fair dealing.

Amici respectfully contend that the magistrate judge here erred in concluding that the University was not contractually bound by similar terms and promises, and that the Court should therefore decline to adopt the magistrate judge's Report and Recommendation to the extent it depends upon the determination that there was no valid contract. Amici believe their brief will assist the Court in resolving the pending motion for judgment on the pleadings in this case by providing the Court with additional analysis of the key legal issue—whether Defendants were subject to any contractual obligations—beyond what Giuliani provides the Court in his brief.

June 19, 2009

**THOMAS, FERGUSON  
& MULLINS, LLP**

/s/ William J. Thomas

William J. Thomas, II  
(N.C. Bar # 9004)  
thomas@tfmattorneys.com  
119 East Main Street  
Durham, NC 27701  
919-682-5648

Respectfully submitted,

**COOPER & KIRK, PLLC**

/s/ Charles J. Cooper

Charles J. Cooper  
ccooper@cooperkirk.com  
David H. Thompson  
(N.C. Bar # 31958)  
dthompson@cooperkirk.com  
David Lehn  
dlehn@cooperkirk.com  
1523 New Hampshire Avenue NW  
Washington, DC 20036  
202-220-9600

*Attorneys for Amici Edward C. Carrington et al.*

**CERTIFICATE OF SERVICE**

I hereby certify that, on June 19, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to the following:

James Donald Cowan, Jr.  
ELLIS & WINTERS, LLP  
100 North Greene Street, Suite 102  
Greensboro, NC 27401  
*Counsel for Defendants Duke University and Orrin  
Daniel Vincent, III*

Robert C. Ekstrand  
EKSTRAND & EKSTRAND, LLP  
811 Ninth St., Suite 260  
Durham, North Carolina 27705  
*Counsel for Plaintiff Andrew Guliani*

/s/David Lehn